

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARTHUR JACKSON, III : CIVIL ACTION

VS :

DELAWARE COUNTY; WACKENHUT :
CORRECTIONS CORPORATION C/O :
PRENTICE HALL CORP.; WACKENHUT :
CORPORATION; DELAWARE COUNTY :
BOARD OF PRISON INSPECTORS; :
CHARLES SEXTON, CHAIRMAN OF :
DELAWARE COUNTY BOARD OF :
PRISON INSPECTORS; GEORGE HILL, :
SUPERINTENDENT OF DELAWARE :
COUNTY PRISON (GEORGE W. HILL : NO. 02-3230
CORRECTIONAL FACILITY); JAMES :
JANECKA, WARDEN OF DELAWARE :
COUNTY PRISON; DEBORAH :
PERRETTA, HEALTH SERVICES :
ADMINISTRATOR OF DELAWARE :
COUNTY PRISON; MARGARET :
CARRILLO, M.D., DELAWARE :
COUNTY PRISON; DR. FREDERICK, :
DELAWARE COUNTY PRISON; DR. :
HOLLAND HULL, DELAWARE :
COUNTY PRISON; MERIAN BYRD, :
NURSE, DELAWARE COUNTY :
PRISON; CAROL SNELL, NURSE, :
DELAWARE COUNTY PRISON :

**DEFENDANTS WACKENHUT CORRECTIONS CORPORATION,
THE WACKENHUT CORPORATION, JAMES JANECKA, DEBORAH
PERRETTA, MARGARET CARRILLO, M.D., DR. FREDERICK, DR. HOLLAND
HULL, MERIAM BYRD AND CAROL SNELL'S PRE-TRIAL MEMORANDUM**

I. A BRIEF STATEMENT OF THE NATURE OF THE ACTION

This matter concerns a slip and fall accident that occurred on the grounds of the George W. Hill Correctional Facility in Delaware County, Pennsylvania on May 28, 2000. Plaintiff has brought claims against all defendants in the nature of 42 U.S.C.A. § 1983 violations and pending state tort claims of a breach of duty to provide reasonable healthcare and reasonable access to

healthcare, negligence, and intentional infliction of emotional distress. The jurisdiction of the Court is invoked by virtue of the Federal statutory claim and the protections afforded by the U.S. Constitution.

II. DEFENDANTS COUNTERSTATEMENT OF THE FACTS

Plaintiff Arthur Jackson was not deprived of his medications by the prison staff at the George W. Hill Correctional Facility during his incarceration during weekends in February – May, 2000. On the contrary, Mr. Jackson had decided, on his own accord, to stop bringing the two day's worth of medications that he was on notice to bring with him each weekend. Mr. Jackson's allegation that he stopped bringing his medication because, on one weekend, he was told at discharge that the prison had "lost" his medication is entirely without substantiation.

As the "weekender" inmates were to bring only the medications needed for the forty-eight (48) hours they would be incarcerated, there would have been no medication to lose because Mr. Jackson would have been administered the entire amount of medication he had brought to the prison.

Mr. Jackson, despite being incarcerated as a "weekender" for a DUI conviction, was admittedly drinking during his weekdays of "furlough" time between his weekends of incarceration. During several weekends, Mr. Jackson arrived at the prison in an obviously inebriated state and was sent up to the main prison to serve that particular weekend.

Mr. Jackson was a chronic alcoholic. Mr. Jackson's complaints of "sweating, shaking, inability to focus his eyes, not being able to walk straight and constant vomiting..." was deemed a result of alcohol withdrawal by the prison medical personnel and was treated accordingly. Several of his medications, most notably the benzodiazapenes, were contraindicated with alcohol and were withheld on those weekends when Mr. Jackson arrived inebriated.

Mr. Jackson was well aware that it was his responsibility to arrive at the prison each successive weekend with those medications he would be taking for the forty-eight hours he was incarcerated. His voluntary decision to stop bringing his medications was the reason he did not receive them, not because of any policy of action of the prison designed to deprive him of his medications. A notable exception to the directive to have weekend prisoners bring their own medications was the provision of insulin to diabetic inmates due to its injectable nature.

Mr. Jackson not only stopped bringing his medications to the prison, but voluntarily stopped taking the benzodiazapene (Klonopin) he was prescribed for some time prior to his accident. At Crozer-Chester Hospital on the night of his accident, blood tests reveal no trace of benzodiazapene in his system. This medication has a lengthy half life and traces would be present in his system for weeks after cessation.

Mr. Jackson also admitted to attempting to flush his system with water after stopping drinking late in the week immediately prior to the weekends he was required to report to the prison. At Crozer-Chester Hospital on the night of his accident, his salt level was dangerously low and he was diagnosed with a resulting condition – hyponatremia. According to medical literature, hyponatremia can cause seizures and loss of consciousness. Hyponatremia can be caused by ingesting large amounts of water.

Defendants were not in control of Mr. Jackson or his actions during his weekdays of "furlough" time, and Mr. Jackson's continuous abuse of alcohol, non-compliance with medications and contraindication and his attempts to mask his alcohol abuse by flushing his system with water resulted in a compromise of his system that resulted in his alleged loss of consciousness and injuries.

III. DAMAGES

(See Plaintiff's Memorandum)

Mr. Jackson has not been employed since 1991. Plaintiff's expert, Dr. Lee Silverman, was instrumental in establishing Mr. Jackson's total disability with the Social Security Administration, which was finally determined in 1998 after being challenged for several years.

IV. DEFENDANT'S LIST OF WITNESSES TO BE CALLED AT TRIAL

List showing the names and addresses of all witnesses the party submitting the memorandum intends to call at trial.

1. Plaintiff, Arthur Jackson, III
2. Camilla McFadden (Plaintiff's wife)
3. Lee Silverman, M.D.
Mercy Psychiatry Associates
1503 Lansdowne Avenue
Suite 3005
Darby, PA 19023
4. Daniel J. Gzesh, M.D.
Neurology Associates, LTD.
1514 Wolf Street
Philadelphia, PA 19145
5. Carol Armstrong
4023 Howell Road
Malvern, PA 19355
6. Andrew C. Verzilli (Plaintiff Expert)
4096 Durham Road
Ottsville, PA 18942
7. Andrew G. Verzilli (Plaintiff Expert)
4096 Durham Road
Ottsville, PA 18942

8. Betsy Bates (Plaintiff Expert)
79 Fairview Road
Elkton, MD 21921
9. James Menapace, M.D. (Defense Expert)
341 E. Casals Place
Ambler, PA. 19002
10. Marc Sageman, M.D., Ph.D. (Defense Expert)
Society Hill Towers
200 Locust Street
Philadelphia, PA 19106
11. Deborah Perretta
Plymouth Meeting, PA.
12. Victoria Gessner, M.D.
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
13. Meriam Byrd, R.N.
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
14. Carol Snell, R.N.
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
15. Cindy Heinly
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA

16. Robert Burgwald
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
17. Mark Smida
Address to be supplied
18. Lt. Chad McCullough
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
19. Ernie Gratz
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
20. Sean Gardner
123 N. Church Street
Clifton Heights, PA
21. Anthony DiCave
1934 Kings Highway
Swedesboro, NJ 08085
22. Christa Snook
1550 Old Highway 27
#273
Clewistown, Florida 33440
22. George W. Hill
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA
23. Charles Sexton
George W. Hill Correctional Facility
P.O. Box 23-A
Cheney Road
Thornton, PA

24. Margaret Carrillo, M.D.
350 Trevor Lane
P.O. Box 2224
Bala Cynwyd, PA 19004
25. Lorraine Robertson
715 S. Matlack Street
West Chester, PA 19382
26. Gerry Gallagher
(Address to be supplied)
27. Michael Vincent
(Address to be supplied)
28. James Latin
(Address to be supplied)
29. David Paschall
(Address to be supplied)
30. James Paschall
(Address to be supplied)
31. All witnesses listed by Plaintiff and co-defendants

V. DEFENDANT'S LIST OF TRIAL EXHIBITS:

1. Plaintiff's inmate records regarding 2000 DUI conviction
2. Plaintiff's inmate records regarding 1998 incarceration
3. Plaintiff's medical records from the George W. Hill Correctional Facility for 1998 and 2000 incarcerations
4. Plaintiff's records from prison housing database
5. Inmate housing report for Plaintiff
6. Plaintiff's Medication Administration Records from February – May, 2000
7. George W. Hill Correctional Facility Weekender Program Policy 1900.05

8. Prison Monthly Unit Activity Log for 5/28/00 for Medical – Security Desk
9. Prison Monthly Unit Activity Log for 5/28/00 for DUI Unit
10. Records from Y & S Pharmacy Services, Inc.
11. WCC Food Service Department sample menu
12. WCC Health Services Policy and Procedure Manual (revised 2/1/96)
13. WCC Health Services Policy and Procedure Manual (revised 12/02)
14. Accreditation of American Correction Association dated 8/31/01
15. Accreditation of National Commission on Correctional Health Care dated 2/25/00
16. List of weekend inmates during weekends from February – May, 2000
17. WCC Policy No. 1100.02 (Menu Planning and Meal Service)
18. WCC policy No. 1100.02.1 (Meal Service)
19. Chart regarding Plaintiff's medical prescriptions
20. George W. Hill Correctional Facility shift rosters for February – May, 2000
21. Photocopies of checks regarding Plaintiff's prescription medications (2000)
22. Professional Services Contract between the Delaware County Board of Prison Inspectors and Wackenhut Corrections Corporation dated 8/31/95
23. Records from Crozer-Chester Medical Center/Crozer-Keystone Health System
24. Records from Celcus I. Ebba, M.D.
25. Records from Satish Marisiddaiah, DDS
26. Records from Michael Ryan, DDS
27. Records from Leonard Hirsh, M.D.
28. Records from Dr. Daniel Gzesh

29. Records from David Lee Silverman, M.D.
30. Records from Dr. Michael Stanley
31. Records from Dr. John Draganeseu
32. Records from Bryn Mawr Hospital
33. Records from Medicine Shoppe
34. Records from Beckett Apothecary
35. Records from CVS Pharmacy
36. Records from Riddle Memorial Hospital
37. Records from Prashant Mukerjee, M.D.
38. Records from Chester County Hospital
39. Records from Social Security Administration
40. Records from Delaware County Memorial Hospital - 1997
41. Curriculum Vitae of James F. Menapace, M.D.
42. Expert report of James F. Menapace, M.D. dated 5/27/03
43. Expert Report of James F. Menapace, M.D. dated 10/6/03
44. Expert Report of James F. Menapace, M.D. dated 2/9/04
45. Expert Report of James F. Menapace, M.D. dated 2/29/04
46. Internet article regarding Hyponatremia by Tom Brody
47. Curriculum Vitae of Marc Sageman, M.D., Ph.D.
48. Expert report of Marc Sageman, M.D., Ph. D. dated 6/6/03
49. Expert report of Mark Sageman, M.D., Ph. D. dated 2/19/04
50. Curriculum Vitae of Dan Jonathon Gzesh, M.D.
51. Expert Report of Dan Gzesh, M.D. dated 2/4/03

52. Curriculum Vitae of Lee Silverman, M.D.
53. Expert Report of Lee Silverman, M.D. dated 1/21/03
54. Expert Report of Lee Silverman, M.D. dated 2/2/04
55. Transcript of statement of counsel re: failure of Drs. Silverman and Gzesh to appear for depositions dated March 5, 2004
56. Deposition transcript of Arthur Jackson dated 2/20/03
57. Deposition transcript of Arthur Jackson dated 3/12/03
58. Deposition transcript of Camilla McFadden
59. Deposition transcript of Carol Snell
60. Deposition transcript of Dr. Victoria Gessner
61. Deposition transcript of Miriam Byrd
62. Deposition transcript of Cindy Heinley
63. Deposition transcript of Robert Burgwald
64. Deposition transcript of Mark Smida
65. Deposition transcript of Lt. Chard McCullough
66. Deposition transcript of Ernest W. Gratz
67. Deposition transcript of Sean Gardner
68. Deposition transcript of George W. Hill
69. Deposition transcript of Charles P. Sexton, Jr.
70. Deposition transcript of Deborah Perretta
71. Deposition transcript of James Janecka
72. Deposition transcript of Lorraine Robertson
73. Documents previously marked by Plaintiff's counsel as Exhibit Byrd – 12 for depositions
74. Three (3) VHS videotapes of Plaintiff's Independent Medical Examination with Marc Sageman, M.D., Ph.D.

- 75. Any and all deposition transcripts taken between March 5, 2004 and the commencement of trial
- 76. Any and all exhibits reserved by Plaintiff
- 73. Deposition transcript of Miriam Byrd
- 74. Deposition transcript of Cindy Heinly
- 75. Deposition transcript of Robert Burgwald
- 76. Deposition transcript of Mark Smida

VI. LENGTH OF TRIAL

Trial in this matter is expected to last 3 – 4 weeks

VII. SPECIAL COMMENTS REGARDING LEGAL ISSUES

Defendants assert that Plaintiff has not met its burden of proof or persuasion to establish that any of the Defendants were deliberately indifferent to Plaintiff's serious medical needs as required under 42 U.S.C.A. § 1983.

In regard to the state tort claims, Defendants, as state actors performing an essential governmental function, are immune from suit pursuant to 42 Pa. C.S. § 1841 et.seq.

Plaintiff's contributory negligence in refusing to bring his medications to the prison, continuing to abuse alcohol, and attempting to flush his system of alcohol and causing a hyponatremic (low salt level) condition is well beyond the limit that would enable him to recover damages under Pennsylvania law.

Plaintiff's expert's opinions and testimony must be precluded pursuant to F.R.E. 702.

**KELLY, MCLAUGHLIN, FOSTER, BRACAGLIA,
DALY, TRABUCCO & WHITE, LLP**

By: /s/ David F. White

David F. White

I.D. No. 55737

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Attorneys for Defendants,

Wackenhut Corrections Corporation,

The Wackenhut Corporation

And James Janecka, Deborah Perretta,

Margaret Carrillo, M.D., Dr. Frederick,

Dr. Holland Hull, Meriam Byrd and Carol Snell

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HOLLAND HULL, DELAWARE :
COUNTY PRISON; MERIAN BYRD, :
NURSE, DELAWARE COUNTY :
PRISON; CAROL SNELL, NURSE, :
DELAWARE COUNTY PRISON :

CERTIFICATE OF SERVICE

I, David F. White, Esquire do hereby certify that a true copy of the Pre-Trial Memorandum has been served via U.S.

Mail, First Class, postage prepaid, to the following at the addresses and on the date listed below:

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March 29, 2004
Date

/s/David F. White

